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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 2429 of 2005

Date of decision: 24.9.2007

Karam Chand and others ...Appellants

Versus

Lajo ...Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. U. K. Agnihotri, Advocate for the appellants.

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RAJESH BINDAL, J.

Having failed before both the Courts below in a suit filed by the plaintiff/respondent for declaration and permanent injunction claiming to be owner of ½ share in the suit property, which was joint property of the parties, the defendants are in second appeal before this Court.

2. I have heard learned counsel for the appellants and with his assistance perused the judgments and decree of both the Courts below.

3. It has been concurrently found in the impugned judgments and decree that respondent/plaintiff, who was admittedly co-sharer in the property in dispute had only sold her share in the land and not house, which is situated in the Abadi Deh. Learned counsel appearing for the appellants sought to rely upon the sale deed executed by the respondent/plaintiff for sale of the land in which there was mention of house. He further submitted that the sale deed earlier was not in his possession and the application moved before learned Additional District Judge for additional evidence was not considered. However, a perusal of the judgment of the Lower Appellate Court shows that even the effect of the sale deed had also been considered and it was opined that recital in the sale deed did not in any manner show that even the share in the house in the Abadi Deh had also been sold by the respondent/plaintiff. All what had been sold vide sale deed was her share

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in the agricultural land mentioning specific Khasra numbers. Once it is proved on record that respondent/plaintiff had not sold her share in the house located in the Abadi Deh, in my opinion, the suit of the respondent/plaintiff has rightly been decreed by both the Courts below as her half share in the joint property has not been denied even by the appellants.

4. Accordingly, I do not find any merit in the present appeal and the same is dismissed.

September 24, 2007 **(Rajesh Bindal)**
Pka **Judge**